IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 6602 of 1989

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NATWARLAL JAGJIVANDAS MAHAJAN

Versus

DISTRICT PRIMARY EDUCATION OFFICER

Appearance:
1. Special Civil Application No. 6602 of 1989
MR VH DESAI for Petitioner No. 1
MR HS MUNSHAW for Respondent No. 1
MR BS PATEL for Respondent No. 1
RULE SERVED for Respondent No. 2
Mrs. Manisha L. Shah, AGP for Respondent No. 3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 20/10/2004

ORAL JUDGEMENT

1. The petitioner was not contented with a minor penalty imposed by the Disciplinary Authority and has ventured to challenge the said penalty of stoppage of two increments with future effect by the Disciplinary Authority by order dated 1st November 1988 (Annexure "D") after issuing a show cause notice dated 1st October 1988. In the said order, which is the subject matter of

challenge after completing the round of appeal and revision, it is stated that the petitioner had misbehaved with a lady teacher, Smt. Ranjenben Bhavsar, and, subsequently, on different occasions he had beaten the said lady teacher and, thus, vitiated the atmosphere of the school which had a bearing on the minds of the children studying in the school. After taking into consideration the reply and the statements of concerned parties, the punishment of stoppage of two increments with future effect was imposed. Being aggrieved by the said order, the petitioner had approached the Appellate Authority and the said appeal was also dismissed. According to the learned advocate for the petitioner, the said appeal was rejected on the ground of delay of one day, and, looking to the merits of the matter and the grounds raised in the appeal, the delay ought to have been condoned by the Appellate Authority.

2. Learned Assistant Government Pleader, Mrs. Shah, has submitted that it was a case of gross indiscipline against the petitioner, and the misbehaviour with the lady colleague and beating her in the school premises in presence of the students was an act of clear misconduct, which was fortified by the statements of the persons present in the school premises. The said punishment was imposed after issuance of a show cause notice and after taking into consideration the reply filed by the delinquent. Affidavit-in-reply is also filed by the District Primary Education Officer, Baroda, and it is clearly submitted in the said affidavit-in-reply that the charges levelled against the petitioner stand proved and even the representation submitted by the petitioner was also taken into consideration. In the affidavit-in-reply, it is submitted that the petitioner was guilty of misconduct and, hence, the punishment commensurating with the misconduct was imposed and, therefore, no interference is called for by this Court in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution.

3. Having considered the rival submissions made by the learned advocates for both the parties, in my view, the petitioner has escaped with a minor penalty and the concerned Authority had taken a very lenient view looking to the alleged misconduct, which stands proved, and such behaviour of the petitioner itself is sufficient to remove a person from the Institution, where the students receive not only education, but lessons of morality, and a slightest infringement of conduct and moral of a teacher is sufficient enough to invite the gravest of penalty. However, the concerned Authority had imposed

punishment of stoppage of two increments with future effect and, therefore, at this stage, after lapse of 15 years from the order of punishment, I do not propose to direct the Authority to enhance the punishment since the petitioner had retired. Even the Appellate Authority has rightly not condoned the delay and dismissed the appeal.

4. In the result, Rule is discharged with no order as to costs. It is open to the petitioner to request the concerned Authority to release the retiral benefits, if not paid so far.

(Anant S. Dave, J.)

(swamy)